INVOICE



Alex Mas The Nature Conservancy 14 Main Street, Suite 401 Brunswick ME 04011

E-mail: amas@tnc.org

Invoice # 56

Date: March 4, 2011

Bill To:

Vendor Code:

Environmental Protection BLWQ 17 State House Station Augusta ME 04333-0017 VC1000067626

| Total Co. | Description | | |
|-----------|--------------------------------------|-------------------|--|
| | In Lieu Fee for Wetland Compensation | \$37,681.72 | |
| | Corps Number: NAE-2008-0280 | | |
| | Internal transfer-invoice | | |
| | Machias Savings Bank | | |
| | | | |
| | | | |
| | | | |
| | | Total \$37,681.72 | |

IN-LIEU-FEE (ILF) PROJECT DATA WORKSHEET

| DEP Invoice # <u>56</u> | | | | |
|--|--|--|--|--|
| [Note: Will be filled in by ILF Administrator in Augusta] | | | | |
| eject name: Machias Savings Bank | | | | |
| Applicant (s): MSB Leasing, Inc. | | | | |
| DEP/Corps permit #: <u>NAE-2008-0280</u> | | | | |
| [Note: Please attach a PDF copy of the permit] | | | | |
| ILF Contribution Amount \$37,681.72 | | | | |
| [Note: Please attach a PDF copy of the check] | | | | |
| Project address: <u>581 Wilson Street, Brewer, Maine 4412</u> | | | | |
| [Note; Please attach a PDF map of project location] | | | | |
| Biophysical region: Central Mine Embayment Subsection | | | | |
| Size of total impact subject to compensation: 24,891 sf | | | | |
| Resources Impacted: [The resource table on page 2 MUST be filled in with all | | | | |
| resource types impacted, amounts and functions.] | | | | |
| DEP/Corps Project manager: Peter Tischbein | | | | |

Note: The ILF Project Data Worksheet must be filled out by the PM within 3 days of receiving a contribution to the "Natural Resource Mitigation Fund" and faxed along with a copy of the check to James Cassida in Augusta at 592-1864. The distribution of ILF contributions is time sensitive.

The PM should also double check to make sure that the check has been routed to Augusta with the correct account number reference. The account # for the ILF program is 014.06A.1776.14

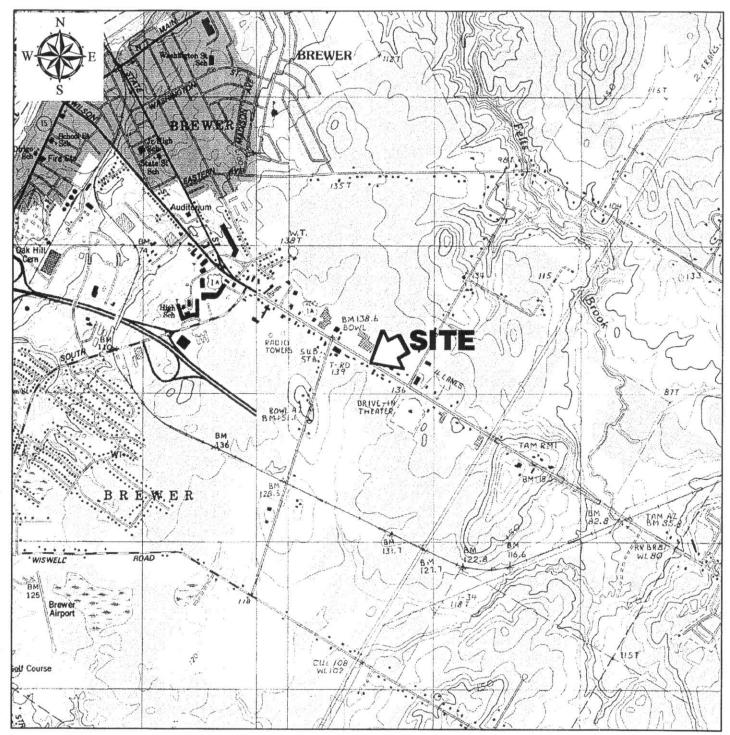
Resource(s) Impacted:

Resource Type: (Wetlands by NWI Type (PFO, PSS, M1, M2, E1, E2, etc), significant vernal pool (SVP), shorebird feeding & staging habitat (Shorebird), inland waterfowl & wading bird habitat (IWWH), tidal waterfowl & wading habitat (TWWH), and river, stream, or brook (RSB).

Wetland Functions & Values: Groundwater recharge/discharge (GWR); floodflow alterations(FF); fish & shellfish habitat(FSH); sediment toxicant retention (STR); nutrient removal (NR); production export (PE); sediment/shoreline stabilization (SS); wildlife habitat (WH); recreation (R); education/scientific value (ESV); uniqueness/heritage (UH); and visual quality/aesthetics (VQ).

Types of impacts: may include filling, dredging, vegetation conversion (e.g. forested to shrub/scrub), others.

| Resource type | Functions (for wetland impacts) | Type of Impact | Sq Feet Impacted |
|-----------------------|---|----------------------------|--------------------|
| (list all that apply) | (list all that apply, by resource type) | (by resource type) | (by resource type) |
| PFO | Wildlife habitat, sediment/toxicant retention, nutrient removal, & Floodflow alteration | Fill | 24,891 |
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| - www. | | | |
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| | | Total square feet impacted | 24,891 |



SOURCE:

ORIGINATOR: Terrain Navigator Pro

PUBLISHER: Maptech, Inc. www.maptech.com

SCALE: 1:24000"

Vegzie 44.77.8/187 68.74/0492



ENGINBERS * SURVEYORS 465 Ge. Math. Sheet PO, Box 639 Brewer, MC 04412 Tel: 207-989-4824 FAX 207-989-4881

> Machias Savings Bank Brewer, Maine

LOCATION MAP

DATE: December 17, 2007 JOB# 4564



DEPARTMENT OF THE ARMY

NEW ENGLAND DISTRICT, CORPS OF ENGINEERS 696 VIRGINIA ROAD

CONCORD, MASSACHUSETTS 01742-2751

REPLY TO ATTENTION OF

MAINE PROGRAMMATIC GENERAL PERMIT (PGP)

| AUTHORIZATION LETTER AN | D SCREENING SUMMARY |
|--|---|
| Jim Donnelly Machias Savings Bank- MSB Leasing, Inc. 93 High Street Ellsworth, Maine 04605 | CORPS PERMIT # NAE-2008-0280 CORPS PGP ID# 08-019 STATE ID# NRPA-Tier 3 |
| DESCRIPTION OF WORK: Place and maintain 24,891 sq. ft. (0.57 ac.) of fill in forest Brewer, Penobscot Co., Maine on property denoted as Maj construction of a secondary access drive and parking space | 7, Lot 11. The purpose of the fill is for |
| SPECIAL CONDITIONS: Attached as page 2. | |
| LAT/LONG COORDINATES : 44.7781187 N _ 68.74 | 10492W USGS QUAD:Veazie, Maine |
| I. CORPS DETERMINATION: Based on our review of the information you provided, we have determined that waters and wetlands of the United States. Your work is therefore authorized Permit, the Maine Programmatic General Permit (PGP). | |
| You must perform the activity authorized herein in compliance with all the term and any conditions placed on the State 401 Water Quality Certification including including the PGP conditions beginning on page 7, to familiarize yourself with i requirements; therefore you should be certain that whoever does the work fully conditions of this authorization with your contractor to ensure the contractor ca | ng any required mitigation]. Please review the enclosed PGP carefully, its contents. You are responsible for complying with all of the PGP and understands all of the conditions. You may wish to discuss the |
| If you change the plans or construction methods for work within our jurisdiction authorization. This office must approve any changes before you undertake the | |
| Condition 38 of the PGP (page 15) provides one year for completion of work the expiration of the PGP on October 11, 2010. You will need to apply for reautho October 11, 2011. | |
| This authorization presumes the work shown on your plans noted above is in visubmit a request for an approved jurisdictional determination in writing to the u | |
| No work may be started unless and until all other required local, State and Fed limited to a Flood Hazard Development Permit issued by the town if nece and allow us to inspect the project. Hence, you must complete and return the weeks before the anticipated starting date. (For projects requiring mitigation, but the starting date is the starting date.) | ssary. Also, this permit requires you to notify us before beginning work attached Work Start Notification Form(s) to this office no later than 2 |
| II. STATE ACTIONS: PENDING [X]. ISSUED[]. DENIED [] | DATE |
| APPLICATION TYPE: PBR, TIER 1:, TIER 2:, TIER 3 | X LURC: DMR LEASE: NA: |
| III. FEDERAL ACTIONS: | |
| JOINT PROCESSING MEETING: Jan. 31, 2008 LEVEL OF | REVIEW: CATEGORY 1: CATEGORY 2;_ X |
| AUTHORITY (Based on a review of plans and/or State/Federal applications) | SEC 10X, 404X 10/404, 103 |
| EXCLUSIONS: The exclusionary criteria identified in the general permit do r | not apply to this project. |

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA_NO_, USF&WS_NO_, NMFS_NO_

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Manchester, Maine Project Office.

PETER TISCHBEIN PROJECT MANAGER MAINE PROJECT OFFICE

PHILIP T. FEIR COLONEL, CORPS OF ENGINEERS DISTRICT ENGINEER



SPECIAL CONDITIONS FOR DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT NO. 2008-0280

- 1. The permittee shall assure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.
- 2. Adequate sedimentation and erosion control devices, such as geotextile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.

All exposed soils resulting from the construction will be promptly seeded and mulched in order to achieve vegetative stabilization.

- 3. The project will be constructed in accordance with the permit application drawings entitled, "Proposed Site Plan of Land of Machias Savings Bank", dated Nov. 30, 2006 as prepared by CES, Inc.
- 4. In order to mitigate for the permanent impact to the filled wetlands the applicant will implement the prepared mitigation plan entitled "Mitigation Plan For Machias Savings Bank (MSB Leasing,Inc). Brewer Maine" dated March, 2009 as prepared by CES, Inc. The mitigation will consist of enhancing an area of 1.98 acres of wet meadow off of Lambert Road in the City of Brewer with the subsequent preservation of this compensation site which comprises of 2.57 acres.
- 5. Additional compensation will consist of the payment of \$35,000 to the Natural Resource Mitigation Fund. The Corps will provide a completed ILF Project Data Worksheet which must be mailed with a cashiers check or bank draft, made out to "Treasurer, State of Maine", with the permit number noted on the check. The check and worksheet should be mailed to: ME DEP, Attn: ILF Program Administrator, State House Station 17, Augusta, ME 04333. This authorization is not valid until the permittee provides the Corps with a copy of the check, with the permit number noted on the check. The ILF amount is only valid for a period of one year from the date on the authorization letter. After that time, the project would need to be reevaluated and a new amount determined.



DEPARTMENT OF THE ARMY

NEW ENGLAND DISTRICT, CORPS OF ENGINEERS 696 VIRGINIA ROAD CONCORD, MASSACHUSETTS 01742-2751

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 28, 2011

CENAE-R-PT NAE-2008-00280

Machias Savings Bank
MSB Leasing, Inc.
ATTN: John Hayward
P.O. Box 318 / 4 Center Street
Machias, Maine 04654

Dear Mr. Hayward:

This concerns authorization NAE-2008-00280 under the Maine Programmatic General Permit which was issued to Machias Savings Bank-MSB Leasing, Inc. on June 25, 2009 (see copy attached). This authorization allowed the discharge of fill material in an area of 24,891 square feet (0.57 acre) of forested wetlands for the construction of a secondary access drive and parking space for a new banking facility in Brewer, Maine.

There were two Special Conditions relating to compensatory mitigation which was intended to offset the above wetland impacts:

- Permit Special Condition 4 required mitigation consisting of "enhancing an area of 1.98 acres of wet meadow off of Lambert Road in The City of Brewer with the subsequent preservation of this compensation site" which is 2.57 acres in size. The mitigation was to be performed in accordance with the plan entitled "Mitigation Plan for Machias Savings Bank (MSB Leasing, Inc.)" dated March 2009.
- Permit Special Condition 5 required additional compensation consisting of "the payment of \$35,000 to the Natural Resource

Mitigation Fund" (to be mailed to the Maine Dept. of Environmental Protection).

In the approved March 2009 mitigation plan, on page 3 under the heading "SECTION L-PRESERVATION" it states that a draft copy of the conservation easement or deed restriction to protect the 2.57 acre site would be submitted to our office for review, and that the approved document would be executed and recorded within 180 days of the date of permit issuance. As the permit was issued on June 25, 2009, the conservation easement or deed restriction should have been recorded by December 25, 2009. It was also required that a copy of the recorded instrument be submitted to our office within 90 days of the date of recordation. This would have been March 25, 2010 at the latest. To date, this office has no record of receipt of a draft conservation easement/deed restriction nor of receipt of a copy of the final executed document.

The monitoring of the mitigation work is addressed on page 5 of the approved mitigation plan under the heading "MONITORING." It was required that within 60 days of completion of the mitigation project, a letter be sent to our office specifying the date of completion. Once the mitigation work was completed, the approved plan required the submission of five annual monitoring reports due by December 15th of each year being monitored. After the five years of monitoring were completed, a post-construction assessment would be due. To date, we have not received a letter indicating that the mitigation work is complete, nor have we received any annual monitoring reports. We did receive a copy of the Compliance Certification Form you signed on July 27, 2010 indicating that the project impacts were complete.

Permit Special Condition 5 requiring a \$35,000 payment to the Natural Resource Mitigation Fund is of particular concern as this special condition stated that the permit "authorization is not valid until the permittee provides the Corps with a copy of the check, with the permit number noted on the check." After checking with The Nature Conservancy which manages Maine Natural Resources Conservation Program for the Maine Department of Environmental Protection (MEDEP), we have found no evidence that the payment was made, without which your permit authorization would be invalid and your project would be in non-compliance. In addition, Permit Special Condition 5 stated, "The ILF amount is only valid for a period of one year from the date on the authorization letter. After that time, the project would need to be reevaluated and a new amount determined." Therefore, if the payment has

not been made, as appears to be the case, the required amount to bring the project into compliance may exceed the amount initially authorized (\$35,000).

The Corps of Engineers (Corps) regulations for addressing permit non-compliance are outlined in 33 CFR Section 326. Our normal approach is to make every attempt to elicit cooperation of the permit holder. If these attempts are unsuccessful, the Corps will take action as we deem necessary and as allowed by federal law. Such actions may include permit suspension or revocation, administrative penalties or referral to the U.S. Attorney's Office in Federal District Court for civil litigation which may include fines, injunction on work, or site remediation.

Within 30 days of the date of this letter, please submit a copy of the recorded conservation easement or deed restriction, an update on the status of the mitigation work/site enhancement, and a copy of the check submitted to the Maine Department of Environmental Protection (ME DEP). If none of these measures have been carried out, please provide an explanation of why and what steps you will take to correct the permit non-compliance and prevent its recurrence. If so, please include a schedule for when these steps will be implemented. Please note that the project would need to be reevaluated and a new dollar amount determined before a check could be submitted to the ME DEP.

We appreciate your cooperation and assistance in resolving this matter. If you have any questions, please contact Peter Tischbein at (207) 623-8367 or peter.tischbein@usace.army.mil.

Ruth M. Ladd

Chief, Policy Analysis and Technical

Support Branch

Regulatory Division

Attachments

Copy furnished:

James Cassida, MEDEP, Augusta, Maine

Cassida, James

From:

Tischbein, Peter NAE [Peter.Tischbein@usace.army.mil]

Sent:

Tuesday, March 01, 2011 10:53 AM

To:

Cassida, James

Subject:

RE: Machias Savings Bank

Jim: Ruthann just sent this info. to you but I noticed a correction is needed on the ILF project worksheet. Ruthann put 35,000 which was required by the permit when issued. Given that the bank was delinquent in paying, I told them to send an adjusted amount to reflect the change in the cost formula. The \$37,681.72 amount is the adjusted amount. Pete

----Original Message----

From: Cassida, James [mailto:James.Cassida@maine.gov]

Sent: Wednesday, February 16, 2011 11:51 AM

To: Tischbein, Peter NAE Cc: Clement, Jay L NAE

Subject: Machias Savings Bank

Peter: The DEP recently received a check from Machias Savings Bank for 37,681.72 for the Brewer project NAE-2008-00280. Before I can process the money I need a copy of the full Corps permit, a location map and a copy of an ILF project worksheet including the resource impact table on page 2.

Can you get this stuff over to me?

James Cassida, Director

Division of Land Resource Regulation

Bureau of Land & Water Quality

james.cassida@maine.gov

592-1864

MSB LEASING, INC.

P.O. Box 318 • Machias, Maine 04654-0318 (207) 255-3347 www.MachiasSavings.com

PAY TO THE ORDER OF

REFERENCE: CHECK DATE:

V0010003368 02/01/11

002929

ON. C. S. JAPITED AND CONTROL OF C. S. SEC. OF S. S. S. SEC.

AMOUNT

*****37,681.72

MEMO: MNRCF ACCT # 014 06A 1776 14

TREASURER STATE OF MAINE MNRCF STATE HOUSE STATION 17 AUGUSTA, ME 04333

AUTHORIZED SIGNATURE

Drewy/

AUTHORIZED SIGNALURE